

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION (at Cincinnati)

STEVEN D. KING	:	Civil Action No. C-1-01-802
	:	
Plaintiff,	:	(Judge Herman J. Weber)
	:	(Magistrate Timothy S. Hogan)
v.	:	
	:	
CSX TRANSPORTATION, INC.	:	<b>MEMORANDUM OF DEFENDANT</b>
	:	<b>WITH RESPECT TO DEPOSITION OF</b>
	:	<b>DR. THOMAS A. BENDER</b>
Defendant.	:	

Now comes the defendant and hereby and herewith notifies the Court and counsel for the plaintiff that, upon trial of this case, it will offer the entire direct and cross-examination of Dr. Thomas A. Bender from his deposition taken on July 22, 2003, constituting pages 5-34 of the transcript.

The defendant also notifies the Court and counsel for the plaintiff as to its position on an objection interposed by counsel for the defendant during the course of that deposition, as follows:

p. 32, l. 7                      Withdrawn.

Respectfully submitted,

  
James L. O'Connell

(#0009501)

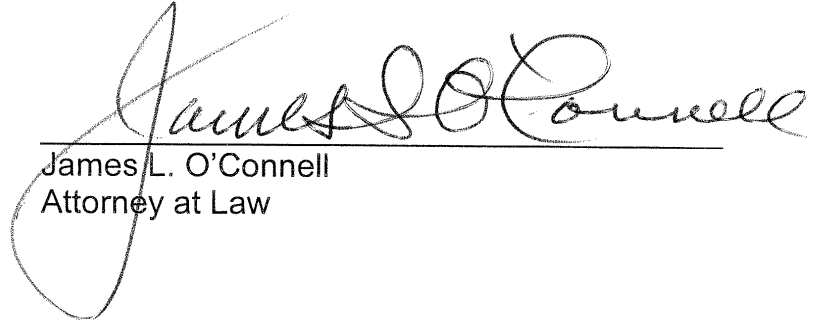
**Trial Attorney for Defendant**  
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OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon: **Robert E. Harrington, Jr. and Daniel W. Pisani**, HARRINGTON, THOMPSON, ACKER & HARRINGTON, LTD., 310 South Michigan Avenue, Suite 2000, Chicago, Illinois 60604, and **Charles J. Davis**, PATSFALL, YEAGER & PFLUM, 1800 Fourth & Vine Tower, One West Fourth Street, Cincinnati, Ohio 45202, by ordinary U.S. mail, this 30th day of September, 2003.

  
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James L. O'Connell  
Attorney at Law